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U.S. Department  
of Transportation

**Pipeline and  
Hazardous Materials  
Safety Administration**

Office of  
Chief Counsel

400 Seventh Street, S.W., Room  
8417 Washington, D.C. 20590-0001  
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***Hazardous Materials Safety  
Law Division***

**NOTICE OF PROBABLE VIOLATION**

Date Issued: FEB - 9 2006

PHMSA Case No. 05-0549-SP-CE

DMS Docket No. 2006-23925

Respondent: Barson Chemical Co.  
170 Shepard Ave.  
Wheeling, IL 60090

ATTN: Ms. Laura Gray, President

No. of Alleged Violations: 4

Maximum Possible Assessment: \$147,500

Total Proposed Assessment: **\$9,560** (Includes a \$2,140 reduction for corrective action)

The Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration (PHMSA) alleges that you (the Respondent named above) violated certain provisions of the Federal Hazardous Materials Transportation Law, 49 U.S.C. § 5101 et seq., and/or the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171 - 180. PHMSA sets forth the specific allegations in Addendum A to this Notice.

What is the maximum and minimum civil penalty that PHMSA can assess? Federal law sets a civil penalty of not more than \$32,500 and a civil penalty of not less than \$275 for each violation of the Federal Hazardous Materials Transportation Law or the HMR **committed after October**

1, 2003, and no more than \$27,500 and no less than \$250 for each violation occurring before October 1, 2003 but after January 21, 1997 (49 C.F.R. §107.329(a)). Each day of a continuing violation constitutes a separate violation for which the maximum penalty may be imposed (49 U.S.C. § 5123(a)(2)).

What are the maximum and minimum civil penalties that PHMSA can assess? Federal law sets a maximum civil penalty of \$50,000 (or \$100,000 if the violation results in death, serious illness or severe injury, or substantial destruction of property) and a minimum civil penalty of \$250 (or \$450 if the violation concerns training) for each violation of the Federal hazardous materials transportation law or the HMR **committed on or after August 10, 2005**. Each day of a continuing violation by a shipper or transporter of hazardous materials constitutes a separate violation for which the maximum penalty may be imposed (49 U.S.C. § 5123(a)).

What factors does PHMSA consider when proposing and assessing a civil penalty? Federal law requires PHMSA to consider certain factors when proposing and assessing a civil penalty for a violation of Federal Hazardous Materials Transportation Law or the HMR. Please refer to Addendum B to this Notice for more information concerning these factors.

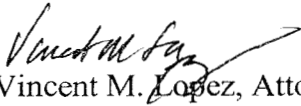
When is my response due? You must respond within thirty (30) days from the date you receive the Notice (49 C.F.R. § 107.313(a)), unless you have made a written request for an extension, which must have been approved by PHMSA (49 C.F.R. §107.313(c)). Due to security concerns, mail delivery from the United States Postal Service (USPS) is experiencing significant delays. As a result, you should allow at least 72 hours for delivery, even for overnight service by the USPS. To assure timely receipt, **PHMSA strongly encourages you to submit your response by e-mail, fax, or express mail**. A response received out of time will not be considered.

What are my response options? You may respond to this Notice in any of three ways:

- (1) Admit the alleged violations and pay the proposed assessment (49 C.F.R. § 107.313(a)(1));
- (2) Send an informal response, which can include a request for an informal conference (49 C.F.R. § 107.313(a)(2)); or
- (3) Request a formal hearing (49 C.F.R. § 107.313(a)(3)).

PHMSA provides information on these options in Addendum B to this Notice and the Office of Chief Counsel's homepage (<http://rspa-atty.dot.gov>). PHMSA explains its procedures for assessing civil penalties and imposing compliance orders in 49 C.F.R. § 107.307 through 107.331.

What happens if I fail to respond? You waive your right to contest the allegations made in Addendum A to this Notice if you fail to respond within thirty (30) days of receiving it (or by the end of any extension). Also, the Chief Counsel may make a finding of fact consistent with the allegations in this Notice and assess an appropriate civil penalty if you fail to respond within the applicable time frame.

  
Vincent M. Lopez, Attorney  
Phone: (202) 366-5199  
vincent.lopez@dot.gov

Enclosures: Addendum A  
Addendum B  
Addendum C  
Case Exhibits

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

PHMSA Case No. 05-0549-SP-CE

## **SPECIFIC ALLEGATIONS**

### Probable Violation No. 1

Offering for transportation in commerce a placardable hazardous material, Calcium Hypochlorite Hydrated, 5.1, UN2880, PGII, when a written risk assessment and complete security plan had not been developed and implemented, as prescribed in §172.802(a)(1,2 & 3), in violation of 49 C.F.R. §§ 171.2(a), 171.2(b), 172.800(b)(7), 172.802(a), and 172.802(b).

### Factual Allegations/Averments

A. On or about August 2, 2005, Respondent offered for transportation, a hazardous material (Calcium hypochlorite hydrated, 5.1, UN2880, PG II), weighing 1,200 pounds, in commerce, as evidenced by bill of lading with shipper no.: 3852 and dated August 2, 2005.

B. On or about the date referenced in paragraph A above, Respondent had not developed and implemented a security plan.

- Please see Inspection/Investigation Report Number 05431069 at page 3, and the exhibits that accompany this report, which are incorporated herein.

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### Probable Violation No. 2

Offering for transportation in commerce hazardous materials, Calcium Hypochlorite Hydrated, 5.1, UN2880, PGII, of placardable amounts of hazardous materials which exceeded 1000 lbs., without submitting a complete and accurate registration statement not later than June 30 for each registration year, or in time to comply, in violation of 49 C.F.R. §§ 171.2(a), 107.601(a)(6), 107.608(a) & (b), 172.504(a), and 171.2(d).

### Factual Allegations/Averments

A. On or about August 2, 2005, Respondent offered for transportation, a hazardous material (Calcium hypochlorite hydrated, 5.1, UN2880, PG II), weighing 1,200 pounds, in commerce, as evidenced by bill of lading with shipper no.: 3852 and dated August 2, 2005.

B. On or about the date referenced in paragraph A above, Respondent had not registered with the U.S. Department of Transportation in accordance with the HMR.

- Please see Inspection/Investigation Report Number 05431069 at page 4, and the exhibits that accompany this report, which are incorporated herein.

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Probable Violation No. 3

Offering for transportation in commerce hazardous materials, Corrosive Solid, Acidic, Inorganic, N.O.S. (Monopersulfate Compound), 8, UN3260, PGIII, in poly pails which had no UN-markings and were non-UN standard packaging, in violation of 49 C.F.R. §§ 171.2(a), 171.2(c), 171.2(g), 171.2(e), 173.22(a), and 173.213.

Factual Allegations/Averments

A. On or about August 19, 2005, Respondent offered for transportation, a hazardous material (Corrosive solid, acidic, inorganic n.o.s. (Monopersulfate compound), 8, UN3260, PG III), weighing 375 pounds, in commerce, as evidenced by bill of lading with shipper no.: 3926 and dated August 19, 2005.

B. On or about the date referenced in paragraph A above, Respondent offered for transportation, the hazardous material referenced in paragraph A above, in non-UN standard packaging, and without properly marking the packaging.

- Please see Inspection/Investigation Report Number 05431069 at page 5, and the exhibits that accompany this report, which are incorporated herein.

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Probable Violation No. 4

Allowing an employee to perform a function subject to the requirements of the HMR, when General Awareness, Safety, Function Specific, In-Depth and Security Awareness training were not conducted as prescribed in §172.704(a)(1), (2), (3),(4)& (5), and records of current hazmat training were not retained as prescribed in § 172.704(d), in violation of 49 C.F.R. §§ 172.700, 172.702(a), 172.704(c)(1), 172.704(d) & 171.2(a).

Factual Allegations/Averments

A. On or about August 2, 2005, Respondent offered for transportation, a hazardous material (Calcium hypochlorite hydrated, 5.1, UN2880, PG II), weighing 1,200 pounds, in commerce, as evidenced by bill of lading with shipper no.: 3852 and dated August 2, 2005.

B. On or about August 19, 2005, Respondent offered for transportation, a hazardous material (Corrosive solid, acidic, inorganic n.o.s. (Monopersulfate compound), 8, UN3260, PG III), weighing 375 pounds, in commerce, as evidenced by bill of lading with shipper no.: 3926 and dated August 19, 2005.

C. On or about the dates referenced in paragraphs A – B above, Respondent allowed its hazmat employees to perform a function subject to the HMR, when the employees were not trained as required and records of training were not maintained.

- Please see Inspection/Investigation Report Number 05431069 at page 6, and the exhibits that accompany this report, which are incorporated herein.

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## **FACTS ALREADY CONSIDERED (UNDER 49 C.F.R. § 107.331) IN SETTING PROPOSED PENALTIES**

### Prior Violations of the Hazardous Materials Regulations:

PHMSA increases proposed penalties when Respondent has committed a prior violation of the Federal Hazardous Materials Transportation Law or the HMR within the last six years, as determined through a civil penalty case, criminal case, or ticketing process (49 C.F.R. § 107.331(d)). More specifically, “the general standards for increasing a baseline proposed penalty on the basis of prior violations are . . . (1) for each prior civil or criminal enforcement case –25% increase over pre-mitigation recommended penalty, and (2) for each prior ticket –10% increase over pre-mitigation recommended penalty” (49 C.F.R. Part 107, Subpart D, Appendix A, Section IV, E).

PHMSA’s records do not contain any prior violations by Respondent and PHMSA did not consider any prior violations in determining the proposed assessment for the violation in this Notice.

### Corrective Action:

An important purpose of PHMSA’s enforcement program is to bring the regulated community into compliance with the Hazardous Materials Regulations, and to promote ongoing efforts by that community to maintain compliance. In determining the final penalty assessment, PHMSA considers documented evidence of actions taken by a Respondent to correct violations and ensure that they do not recur (49 C.F.R. § 107.331 (g)).

Respondent provided correspondence dated July 22, 2005, addressing the corrective action it has taken in response to the probable violations resulting from the inspection. Respondent described and documented its corrective action as follows:

- Violation No.: 1: Respondent stated that it had a Hazardous Communications/Materials Program Book available for review. It is unclear, however, whether Respondent intended this information to be responsive to the security plan probable violation.
- Violation No.: 2: Respondent did not submit any corrective action regarding this probable violation.
- Violation No.: 3: Respondent indicated that it had ordered UN-certified pails for use with its hazardous materials. Respondent also provided a copy of an invoice for its order as further evidence.

- Violation No.: 4: Respondent indicated that it was in the process of conducting security awareness training. Further, Respondent stated that it was awaiting receipt of certification papers from earlier conducted training.

#### Financial Status

Under 49 C.F.R. §107.331 (e) and (f), the proposed penalty may be reduced if Respondent demonstrates that it is unable to pay that penalty, or if payment of the proposed penalty would affect Respondent's ability to continue in business. Respondent's poor financial condition may be a basis for reducing the proposed penalty; a healthy financial condition is *not* a basis for increasing the penalty.

PHMSA has no information that indicates that Respondent is unable to pay the proposed penalty. If Respondent believes it lacks the ability to pay the proposed penalty or that the proposed penalty will affect Respondent's ability to continue in business, Respondent should submit a current balance sheet (certified if possible) or other evidence of its assets and liabilities.

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#### **TOTAL CIVIL PENALTY PROPOSED**

Probable Violation	Maximum Possible Penalty	Baseline Penalty	Increase for Priors	Corrective Action	Proposed Penalty
1	\$32,500	\$4,500	\$0	\$900	\$3,600
2	\$32,500	\$1,000	\$0	\$0	\$1,000
3	\$50,000	\$5,000	\$0	\$1,000	\$4,000
4	\$32,500	\$400/area	\$0	\$240	\$960
<b>TOTAL</b>	<b>\$147,500</b>	<b>\$11,700</b>	<b>\$0</b>	<b>\$2,140</b>	<b>\$9,560</b>

DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

How do I respond to this Notice of Probable Violation (Notice)?

You may respond to this Notice in any of three ways:

- (1) Pay the proposed assessment (49 C.F.R. § 107.315);
- (2) Send an informal response, which can include a request for an informal conference (§ 107.317); or
- (3) Request a formal hearing (§ 107.319).

How do I pay the proposed assessment?

You pay the proposed assessment by:

- (1) Sending a wire transfer, through the Federal Reserve Communications System (Fedwire), to the U.S. Treasury account (49 C.F.R. § 89.21(b)(3). Addendum C contains the instructions for sending wire transfers. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-300), ATTN: Linda Lavalley, Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125 (Telephone No. 405-954-8893).

Or

- (2) Sending a certified check or money order if the penalty amount is \$10,000 or less. The certified check or money order must be payable to the "U.S. Department of Transportation" and must be mailed to the Chief, Financial Operations Division, Attn: Linda Lavalley, Federal Aviation Administration, Mike Monroney Aeronautical Center, AMZ-300, P.O. Box 25082, Oklahoma City, OK 73125.

Or

- (3) Using a credit card via the Internet. To pay electronically with a credit card, visit the following website address and follow the instructions:

<https://www.pay.gov/paygov/>



Where do I send my response?

You must address your informal response or formal hearing request to the attorney who issued the Notice at the following address:

Pipeline and Hazardous Materials Safety Administration  
Office of the Chief Counsel (PHC-10)  
Room 8417  
U.S. Department of Transportation  
400 Seventh Street, S.W.  
Washington, D.C. 20590-0001

When is my response due? (§ 107.313)

You must respond to the Notice within thirty (30) days of the date you receive it. The attorney who issued the Notice may extend the 30-day period for your response if you ask for an extension, and show good cause, within the original 30-day period.

What happens if I do not respond? (§ 107.313)

If you fail to respond to the Notice within thirty (30) days of receiving it (or by the end of any extension), you will waive your right to contest the allegations made in Addendum A to the Notice. In addition, the Chief Counsel will issue a default Order finding the facts as alleged in the Notice and assessing the civil penalty as outlined within that notice.

May I propose a compromise offer? (§ 107.327)

Yes. At any time before an order is issued and referred to the Attorney General for collection, you may propose to compromise a civil penalty case by submitting a specific compromise offer amount to the attorney handling the case (§ 107.327). The Chief Counsel may also propose a compromise.

If a compromise is agreeable to all parties, the attorney handling the case will forward a compromise agreement to you for signature. This document will outline the terms of the joint agreement and you must return a signed original to the attorney handling the case within 30 days. After this agreement has been returned it will be signed by the assigned attorney and presented to the Chief Counsel with a request that the Chief Counsel adopt the terms of that agreement by issuing a Compromise Order (49 C.F.R. § 107.327(a)(1)). The terms of the agreement constitute an offer of compromise until accepted by the Chief Counsel. When you agree to a compromise, you give up your right to appeal the order issued by the Chief Counsel.

What should I include in my informal response? (§107.317)

Your informal response must contain written explanations, information or arguments that respond to the allegation(s), the amount of the proposed civil penalty, or the terms of a proposed compliance order. Provide complete documentation of your explanations and arguments. No specific format is required for an informal response.

May I request an informal conference? (§107.317)

Yes. You may request an informal conference as part of your informal response. Please describe the issues you want to discuss during the conference. After receiving your request, the attorney handling the case will contact you to arrange the conference. Normally the conference will be held by telephone, and the attorney handling the case and the inspector who conducted the compliance inspection will participate in the conference.

What happens after I submit an informal response to the Notice?

We will hold an informal conference if you have asked for one. Based on the Notice, the evidence supporting the Notice, any written explanations, information and documentation that you provide, and matters presented at a conference, the Chief Counsel decides the case. The Chief Counsel may issue an order finding all or some of the violation(s) alleged in the Notice or may withdrawal all or some of the alleged violation(s). If the Chief Counsel finds violation(s), the order will assess a civil penalty.

How do I appeal an order? (§ 107.325)

You may appeal an order to PHMSA's Administrator.

How do I request a formal hearing? (§ 107.319)

You must request a formal hearing within 30 days of the date that you receive the Notice. If you are granted an extension of time to respond to the Notice, you must submit a formal hearing request by the end of the extended time period. If you do not request a formal hearing within the specified time, you will waive your right to a formal hearing.

Your request for a formal administrative hearing must include the following:

- (1) The name and address of the respondent and any other person submitting the request;
- (2) A statement of which allegations of violations are not in dispute; and
- (3) A description of the issues that you will raise at the hearing. (The Administrative Law Judge will decide whether issues not raised in the request may be raised at the hearing.)

After receiving a request for a hearing that complies with these requirements, the Chief Counsel will request an Administrative Law Judge from the DOT Office of Hearings to preside over the hearing. Once an Administrative Law Judge is assigned, all further matters in the proceeding will be conducted by the Administrative Law Judge. Either you or PHMSA may appeal the decision of the Administrative Law Judge to PHMSA's Administrator.

How does PHMSA determine if I have committed a violation?

This is a civil penalty case and PHMSA uses the "knowingly" standard, which is defined in the Federal hazardous materials transportation law (See 49 U.S.C. 5123(a)(1)), in all civil penalty cases. The standard for a violation is similar to "negligence." After considering all the available information (including the additional information you provide in your response to the Notice), PHMSA must find either that (1) you had "actual knowledge" of the facts giving rise to the violation, or (2) you had "imputed knowledge," of the facts giving rise to the violation, in that a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge. PHMSA does not need to find that you actually knew about, or intended to violate, requirements in the Federal hazardous material transportation law or the HMR.

What factors does PHMSA consider when proposing and assessing a civil penalty? (§ 107.331)

PHMSA considers the following factors when proposing and assessing a civil penalty for a violation of the regulations:

- (1) The nature and circumstances of the violation(s);
- (2) The extent and gravity of the violation(s);
- (3) The degree of your culpability;
- (4) Your history, if any, of prior offenses;

- (5) Your ability to pay the penalty;
- (6) The effect of the penalty on your ability to continue in business;
- (7) The size of your business, and
- (8) Other matters as justice may require.

The nature and the timeliness of any corrective action you take to prevent future violations of a similar nature will be considered under item No. 8. However, you must submit documented evidence of that corrective action to the PHMSA attorney. If you have submitted documented evidence regarding any of these factors during PHMSA's investigation of the alleged violation(s), and that documentation is referenced in the Notice or accompanying Inspection/Investigation Report, you do not need to resubmit it.

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), PHMSA must consider the rights of small entities in enforcement actions. PHMSA's hazardous materials enforcement program has been designed to consider small businesses and the penalties that PHMSA proposes and assesses are generally considered appropriate for small businesses. PHMSA takes into consideration the size of the company when proposing and assessing a civil penalty.

However, special consideration may not be given to a small business if:

- (1) The small business has not corrected its violation(s) within a reasonable time;
- (2) The small business has committed one or more prior violations of the HMR;
- (3) The violations involve willful conduct;
- (4) The violations pose serious threats to health, safety or the environment; or
- (5) The small business has not made a good faith effort to comply with the law.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. Our objective is to ensure a fair regulatory enforcement environment.

You have a right to contact the Small Business Administration's national Ombudsman at 1-888-REG-FAIR (1-888-734-3247) or [www.sbs.gov/ombudsman](http://www.sbs.gov/ombudsman) regarding the fairness of the compliance and enforcement activities by this agency.

The Pipeline and Hazardous Materials Safety Administration strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

Where can I find more information on how PHMSA handles hazardous materials enforcement cases?

A more detailed discussion of these procedures is in 49 C.F.R. §§ 107.301 through 107.333. These procedures are also on the Office of the Chief Counsel's home page at <http://phmsa-atty.dot.gov>."

**INSTRUCTIONS FOR ELECTRONIC FUNDS TRANSFER TO  
THE FEDERAL AVIATION ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

1. <b><u>RECEIVER'S ABA NO.</u></b> 021030004	2. <b><u>TYPE SUBTYPE</u></b> (provided by sending bank)
3. <b><u>SENDING BANK ARB NO.</u></b> (Provided by sending bank)	4. <b><u>SENDING BANK REF NO.</u></b> (Provided by sending bank)
5. <b><u>AMOUNT</u></b>	6. <b><u>SENDING BANK NAME</u></b> (Provided by sending bank)
7. <b><u>RECEIVER NAME:</u></b> TREAS NYC	8. <b><u>PRODUCT CODE</u></b> (Normally CTR, or as provided by sending bank)
9. <b><u>BENEFICIARY (BFN) - AGENCY LOCATION CODE</u></b> <b><u>BNF=/ ALC 69-14-0001</u></b>	10. <b><u>REASONS FOR PAYMENT</u></b> Example: PHMSA - Case # / Ticket Number/Pipeline Assessment number

**INSTRUCTIONS:** You, as sender of the wire transfer, must provide the sending bank with the information for Block (1), (5), (7), (9), and (10). The information provided in blocks (1), (7), and (9) are constant and remain the same for all wire transfers to Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #1 - RECEIVER ABA NO.- "021030004"**. Ensure the sending bank enters this nine-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

**Block #5 - AMOUNT** - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. EXAMPLE; \$10,000.00

**Block #7 - RECEIVER NAME - "TREAS NYC."** Ensure the sending bank enters this abbreviation; it must be used for all wire transfer to the Treasury Department.

**Block #9 - BENEFICIARY- AGENCY LOCATION CODE -"BNF=/ALC69140001"**  
Ensures the sending bank enters this information. This is the Agency Location Code for Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

**Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To**  
ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

**Note:** - A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You, as the sender, can assist this process by notifying, at the time you send the wire transfer to the General Accounting Division (405) 954-8893.



## Inspection / Investigation Report No. 05431069

U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
Office of Hazardous Materials Enforcement

### Inspection Location:

Barson Chemical Company  
170 Shepard Ave.  
Wheeling, IL 60090

**Contact:** Shawn Gray, Warehouse Manager  
**Phone:** 847-541-1880  
**Fax:** 347-541-2085

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**Type of Inspection:** SHIPPER INSPECTION  
(GENERAL)

**Result:** ENFORCEMENT REPORT

**Inspector:** CASTELLANOS, LUPE  
**Code:** DHM-43.1  
**Title:** HAZARDOUS MATERIALS  
ENFORCEMENT SPECIALIST

**Signature:**

**Inspector #2:**  
**Code:**  
**Title:**

**Supervisor Name:** Kevin W. Boehne  
**Title:** Chief, Central Region

**Authorization Date:** 10/12/2005

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### Summary of Inspection

On August 23, 2005, Hazardous Materials Enforcement Specialist, Lupe Castellanos, conducted a compliance inspection at Barson Chemical Company, Wheeling, IL. Mr. Shawn Gray, Warehouse Manager, represented the company during the inspection, guided the inspector through the facility, answered questions and provided copies of paperwork requested.

Barson Chemical Company (Barson) distributes pool supplies and industrial chemical products and offers corrosive and oxidizer hazardous materials for transportation in both intrastate and interstate commerce. Barson's shipping papers No.'s 3825, 3902, 3888, 3874, 3861 and 3852, are exemplary of these shipments (Exhibit 2). Barson ships in UN packaging ranging from 5-gallon poly pails to 55-gallon poly drums, most of which are prepackaged by Barson's chemical suppliers. However, Barson does fill and package some of the hazardous materials which the inspector took exception to due to their failure to use UN standard packaging.

The probable violations were explained to Mr. Shawn Gray, Warehouse Manager, who signed the Exit Briefing (Exhibit 1), the day of the inspection and later again to Ms. Laura Gray, Owner, telephonically.

On September 21, 2005, Ms. Laura Gray submitted correspondence addressing the probable violations (Exhibit 16).



**Violation Number:** 1

**Number Discovered:** 1

**49 CFR Section:**

172.800(b)(7); 171.2(b)  
171.2(a), and 172.802(a)&(b)

**Exhibit:** 2 & 3

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**Violation Description:**

Offering for transportation in commerce a placardable hazardous material, Calcium Hypochlorite Hydrated, 5.1, UN2880, PGII, when a written risk assessment and complete security plan had not been developed and implemented, as prescribed in §172.802(a)(1,2 & 3), in violation of 49 CFR §§ 171.2(a), 171.2(b), 172.800(b)(7) and 172.802(a) and 172.802(b).

**Evidence Summary:**

During the inspection, the inspector reviewed copies of Barson's bills of lading (Exhibit 2). Bill of Lading No. 3852, dated August 2, 2005, showed a shipment of twelve-100 lb. pails of Calcium Hypochlorite Hydrated, 5.1, UN2880, PGII, weighing a total of 1,200 lbs. (Exhibit 2, Page 1). Since this shipment was a placardable amount of hazardous materials, the inspector asked Mr. Gray for a copy of Barson's written Security Plan as required by Section 172.802 (b). Mr. Gray told the inspector they did not have a Security Plan and signed the Security Inspection Report certifying his statements (Exhibit 3). Ms. Laura Gray, Owner, later called and confirmed this information telephonically.

Section 172.800 (b)(7) states that each person who offers for transportation in commerce or transports in commerce a quantity of hazardous material that requires placarding under the provisions of the regulations, must develop and adhere to a security plan for hazardous materials that conforms to the requirements. Furthermore Section 172.802(a) states that the plan must include an assessment of possible transportation security risks for shipments of the hazardous materials listed in §172.800 and appropriate measures to address the assessed risks. In addition, Section 172.802(a)(1)(2) & (3) states that the plan must include measures to address the assessed security risks of shipments of hazardous materials covered by the security including 1) Personnel Security, 2) Unauthorized access and 3) En route security. Furthermore, §172.802(b) states that the plan must be in writing.

This violation was explained to Mr. Gray during the inspection.

**Violation Number:** 2

**Number Discovered:** 2

**49 CFR Section:**

171.2(a), 107.601(a)(6),  
107.608(a)&(b) & 172.504(a)  
171.2(d)

**Exhibit:** 2

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**Violation Description:**

Offering for transportation in commerce hazardous materials, Calcium Hypochlorite Hydrated, 5.1, UN2880, PGII, of placardable amounts of hazardous materials which exceeded 1000 lbs., without submitting a complete and accurate registration statement not later than June 30 for each registration year, or in time to comply, in violation of 49 CFR §§171.2(a), 107.601(a)(6), 107.608(a)&(b), 172.504(a) and 171.2(d).

**Evidence Summary:**

During the inspection, the inspector reviewed copies of Barson's bill of lading No. 3852, dated August 2, 2005, showing a shipment of twelve-100 lb. pails of Calcium Hypochlorite Hydrated, 5.1, UN2880, PGII, totaling 1,200 lbs. (Exhibit 2, Page 1). This hazardous material shipment weighed over 1,000 lbs. requiring placarding as prescribed in Section 107.601(a)(6). Mr. Gray told the inspector that he did not know if Barson Chemical Company had a DOT registration. The inspector later checked the DOT Hazardous Material Inspection System and did not find any DOT registration for Barson Chemical Company. Barson Chemical had not applied for a Hazardous Materials Certificate of Registration and was unable to present the inspector with a copy of a current registration.

Section 107.608(b) states that no person required to file a registration statement may transport or cause to be transported or shipped hazardous materials, unless such person has on file, in accordance with §107.620, a current annual Certificate of Registration in accordance with the requirements.

This violation was explained during the exit briefing.

**Violation Number:** 3

**Number Discovered:** 3

**49 CFR Section:**

171.2(a), and 173.22(a)  
173.213  
171.2(c), 171.2(g), 171.2(e)

**Exhibit:** 4, 5-16

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**Violation Description:**

Offering for transportation in commerce hazardous materials, Corrosive Solid, Acidic, Inorganic, N.O.S. (Monopersulfate Compound), 8, UN3260, PGIII, in poly pails which had no UN-markings and were non-UN standard packaging, in violation of 49 C.F.R. §§ 171.2(a), 171.2(c), 171.2(g), 171.2(e), 173.22(a) and 173.213 .

**Evidence Summary:**

During the inspection, the inspector observed and photographed a shipment of 25 lb. poly pails which were ready for shipment (Exhibit 6-8). The pails showed a corrosive label and the Barson Chemical Company label with a trade name of Shock Rite (Exhibits 6-15). The Barson label on the pail also showed that the shipping description for the corrosive product was: Monopersulfate, 8, corrosive Solid, Acidic Inorganic, N.O.S. UN3260, PGIII (Exhibit 13). The pails observed did not have any UN certification markings on them and were not a UN Specification package (Exhibits 6-15).

When the inspector asked to see the MSDS sheets for the Monopersulfate (Shock Rite) the inspector noted that the proper shipping description was: Corrosive Solid, Acidic, Inorganic, N.O.S. (Monopersulfate compound), 8, UN 3260, PGIII (Exhibit 5, Page 5).

The inspector then asked to see shipping papers for a previous shipment of the 25 lb. pails of Shock Rite. Mr. Gray then provided the inspector with a copy of Barson's shipping paper No. 3226, dated August 19, 2005, showing a shipment of fifteen-25 lb. pails of Corrosive Solid, Acidic, Inorganic N.O.S. (Monopersulfate Compound), 8, UN3260, PGIII (Shock Rite) which were representative of what Barson shipped in non-UN packaging (Exhibit 4).

Section 173.22 states that a person may offer a hazardous material for transportation in a packaging or container required by this part only in accordance with the following: (1) The person shall class and describe the hazardous material in accordance with parts 172 and 173 of this subchapter, and (2) The person shall determine that the packaging or container is an authorized packaging, and that it has been manufactured, assembled and marked in accordance with Section 173.7(a) and parts 173 and 178.

The probable violation was explained to Mr. Gray during the exit briefing.

**Violation Number:** 4

**Number Discovered:** 4

**49 CFR Section:**

172.704(a)(1), (2), (3),(4)& (5)  
172.700,172.702(a),  
172.704(c)(1), 172.704(d) & 171.2(a)

**Exhibit:** 2 & 3

---

**Violation Description:**

Allowing an employee to perform a function subject to the requirements of the hazardous materials regulations (HMR), when General Awareness, Safety, Function Specific, In-Depth and Security Awareness training were not conducted as prescribed in §172.704(a)(1), (2), (3),(4)& (5), and records of current hazmat training were not retained as prescribed in §172.704(d), in violation of 49 CFR, §§172.700, 172.702(a), 172.704(c)(1), 172.704(d) & 171.2(a).

**Evidence Summary:**

During the inspection, the inspector reviewed hazardous materials shipping papers which showed that Barson Chemical Company is offering corrosive hazardous materials for transportation in both intrastate and interstate commerce. Barson's Bills of Lading No.'s: 3852 and 3861, are exemplary of these shipments (Exhibit 2). The inspector requested the documentation showing that all employees involved in shipping hazardous materials, have been trained as specified in §172.704.

During the inspection Mr. Gray, told the inspector that the company had a total of 3 hazmat employees, but was unaware of any records of training for himself or any of the hazmat employees and was unable to provide the inspector with any training records and/or information which showed that Barson's training program included all the required General Awareness, Function-specific, Safety, In-Depth and Security Awareness training material as prescribed in §172.704. In addition, Mr. Gray certified his statement regarding the lack of security training by signing the Security Inspection Report (Exhibit 3).

This probable violation was explained to Mr. Gray during the inspection.

**Violation Number:** 5

**Number Discovered:** 5

**49 CFR Section:**

171.2(a), 172.300(a) & 172.301(a).

**Exhibit:** 4&5, 6-18, 13

---

**Violation Description:**

Offering for transportation in commerce a hazardous material, Corrosive Solid, Acidic, Inorganic, N.O.S. (Monopersulfate compound), 8, UN 3260, PGIII in poly pails without marking the package with the proper shipping name of the hazardous materials as prescribed in §172.301(a), in violation of 49 CFR, §171.2(a) and §§172.300(a), 172.301(a).

**Evidence Summary:**

During the inspection, the inspector observed and photographed a shipment of 25 lb. poly pails which were ready for shipment (Exhibit 6-8). The pails showed a corrosive label and the Barson Chemical Company label with a trade name of Shock Rite (Exhibits 6-15). The Barson label on the pail also showed the shipping description for the corrosive as: Monopersulfate, 8, corrosive Solid, Acidic Inorganic, N.O.S. UN3260, PGIII (Exhibit 13).

When the inspector asked to see the MSDS sheets for the Monopersulfate (Shock Rite) the inspector noted that the proper shipping description for the corrosive was: Corrosive Solid, Acidic, Inorganic, N.O.S. (Monopersulfate compound), 8, UN 3260, PGIII (Exhibit 5, Page 5).

The inspector then asked to see shipping papers for a previous shipment of the 25-gallon pails of Shock Rite. Mr. Gray then provided the inspector with a copy of Barson's shipping paper No. 3226, dated August 19, 2005, showing a shipment of fifteen-25 lb. pails of: Corrosive Solid, Acidic, Inorganic N.O.S. (Monopersulfate Compound), 8, UN3260, PGIII (Shock Rite) (Exhibit 4). Mr. Gray told the inspector the shipping paper was representative of their Shock Rite poly pail shipments.

Barson had packaged, marked and shipped the poly pails using an incorrect shipping description of the hazardous materials by entering the technical name first before the class number and the proper shipping name on their Barson label. Barson's label showed the shipping name of: Monopersulfate, 8, Corrosive Solid, Acidic Inorganic, N.O.S. UN3260, PGIII (Exhibit 13), instead of: Corrosive Solid, Acidic, Inorganic, N.O.S. (Monopersulfate compound), 8, UN 3260 PGIII (Exhibits 4&5). Barson failed to mark the packages with the proper shipping name for the hazardous material as shown in the §172.101 Table.

Section 173.22 states that a person may offer hazardous materials for transportation by classifying and describing the hazardous material in accordance with the regulations.

The probable violation was explained to Mr. Gray during the exit briefing.

**Additional Information Pertaining to the Inspection:**

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**Exhibit Summary**

Evidence		Obtained From		
No.	Description	Name, Title	Company	City, State
1	Exit Briefing.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
2	Shipping papers.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
3	Security Inspection Report.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
4	Shipping paper showing hazardous materials shipped in non UN pails.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
5	Copy of MSDS sheet.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
6	Picture of non-UN pails filled with corrosives.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
7	Corrosive/Shock Rite in non UN pail.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
8	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
9	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
10	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
11	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
12	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
13	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
14	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL
15	Non-UN pail filled with corrosive.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL

**Barson Chemical Company**  
**Inspection / Investigation Report No. 05431069**

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Evidence		Obtained From		
No.	Description	Name, Title	Company	City, State
16	Letter of corrective action.	Shawn Gray, Warehouse Manager	Barson Chemical Company	Wheeling, IL





US Department  
of Transportation

Pipeline and Hazardous  
Materials Safety Administration

Office of Hazardous  
Materials Enforcement  
Central Region

2300 E. Devon Ave. Suite 478  
Des Plaines, Illinois 60018  
(847) 294-8580  
(847) 294-8590 - Fax

### EXIT BRIEFING

(This document is not a final report.)

Date: 8.23.05

Report Control #: 05431069

Company Name: Barson Chemical Company

Address: 170 Shepard Ave., Wheeling, IL 60090

#### NAME OF INDIVIDUALS RECEIVING BRIEFING:

Name: Shawn Gray

Title: Warehouse Manager

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

This has been a compliance inspection conducted in accordance with Title 49 U.S.C. Section 5121(c). This exit briefing addresses only the areas noted, and it is not a finding of general compliance in any other areas covered by the Hazardous Materials Regulations that were subject to the inspection.

During the course of the inspection the following probable violations of 49 CFR and/or quality control items were noted:

#### PROBABLE VIOLATIONS:

Section:

Explanation:

172.800 PAGE 1 OF 3

U.S. DOT/PHMSA/OHME/CE

REPORT NUMBER: 05431069

EXHIBIT NUMBER: 1

NO SECURITY PLAN OR  
SECURITY TRAINING.

Section:

Explanation:

173.24

NOT USING UN-PACKAGING (PAKES)  
FOR HAZARDOUS MATERIALS.

(CORROSIVES SOLIDS - UN 3260 PGIII)

U.S. DOT/PHMSA/OHME/CENTRAL REGION

REPORT # \_\_\_\_\_

EXHIBIT # \_\_\_\_\_

PAGE \_\_\_\_\_ OF \_\_\_\_\_

**PROBABLE VIOLATIONS:**

Section: \_\_\_\_\_

Explanation: 172.704

NO HAZMAT TRAINING OR  
HAZMAT TRAINING RECORDS.

3-EMPLOYEES.

Section: \_\_\_\_\_

Explanation: 107.601 + 107.605

NOT DOT REGISTERED.

Section: \_\_\_\_\_

Explanation: \_\_\_\_\_

Section: \_\_\_\_\_

Explanation: \_\_\_\_\_

Section: \_\_\_\_\_

Explanation: U.S. DOT/PHMSA/OHME/CE  
REPORT NUMBER: 05431069  
EXHIBIT NUMBER: 1  
PAGE 2 OF 3

Report Control #: \_\_\_\_\_

This document is not a final report. The information gathered at this inspection and any probable violations noted will be reviewed prior to finalizing the report. Probable violation(s) may be removed or others may be added during this review. In addition, quality control items may be revised to become probable violations during this review.

Upon determination that a probable violation exists, the Associate Administrator for Hazardous Materials Safety is authorized to impose certain sanctions, including warning letters, compliance orders, and civil penalties. In addition, court actions, including injunctive or criminal proceedings, may be initiated. Title 49 U.S.C. Sections 5123 and 5124 provide for civil and criminal penalties for violation of the Hazardous Materials Regulations.

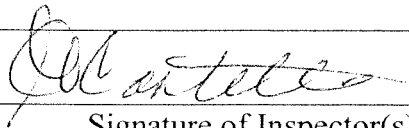
A civil penalty of not more than \$32,500, but not less than \$275, per violation may be imposed through administrative proceedings initiated by the Office of Chief Counsel of the Pipeline and Hazardous Materials Safety Administration. When a criminal violation has been determined by a court, a fine, or imprisonment for not more than 5 years, or both, may be imposed for each violation.

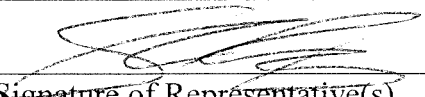
The inspector does not determine which sanction, if any, may be imposed and cannot provide information concerning what proceedings will be initiated or sanctions imposed.

Documentation of corrective action submitted in writing to the inspector within 30 days of the inspection may be considered for mitigation should the sanction imposed result in the issuance of a notice proposing a civil penalty. However, any documented corrective action would not eliminate or preclude the initiation of a civil penalty proceeding, a finding of violation, or assessment of a civil penalty.

Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact John J. O'Connell, Jr. at 202-366-4700, or e-mail us at [OHME-HQ@dot.gov](mailto:OHME-HQ@dot.gov). You also have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR or [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman) regarding the fairness of the compliance and enforcement activities by this agency. The Pipeline and Hazardous Material Safety Administration strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

I certify that I received the above briefing as it appears on this form. I understand that by signing this form I am in no way expressing agreement with its contents. I am only acknowledging that I have reviewed it and have received a copy.

  
\_\_\_\_\_  
Signature of Inspector(s)

  
\_\_\_\_\_  
Signature of Representative(s)

8-23-05

8-23-05

Date

U.S. DOT/PHMSA/OHME/CENTRAL REGION

REPORT # \_\_\_\_\_

EXHIBIT # \_\_\_\_\_

PAGE \_\_\_\_\_ OF \_\_\_\_\_

U.S. DOT/PHMSA/OHME/CENTRAL REGION  
REPORT NUMBER: 000-0000  
EXHIBIT NUMBER: 1  
PAGE 1 OF 1

Certify that the below-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

B. TRUCK

SHIPPER NO. 3852

STRAIGHT BILL OF LADING ORIGINAL - NOT NEGOTIABLE

DATE: 08-02-05

TO: CLEARVIEW POOL		FROM: BARSON CHEMICAL CO.	
DELIVER THURSDAY 8/4			
23091 GRADE SCHOOL ROAD		170 SHEPARD AVENUE	
SOUTH BELOIT, IL		WHEELING, IL 60090	
	* HM	Kind of Packaging, Description of Articles Special Marks and Exceptions	100#
12	*	100# pails CALCIUM HYPOCHLORITE HYDRATED 5.1, UN2880, PGII (CALCIUM HYPOCHLORITE GRANULAR)	1200#
		P.O. verbal - MIKE	
		**** CHEM TREC 800-424-9300 ****	

Remit

COD TO: \_\_\_\_\_

Address \_\_\_\_\_

Note-Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.

The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding \$ \_\_\_\_\_ per \_\_\_\_\_

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading, the property described above in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated above which said carrier (The word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination if on its route otherwise to deliver to another carrier on the route to said destination it is mutually agreed as to each carrier of all or any of, said property overall or any portion of said route to destination and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the bill of lading terms and conditions in the governing classification on the date of shipment.

Shipper hereby certifies that he is familiar with all the bill of lading terms and conditions in the governing classification and the said terms and conditions are hereby agreed to be the shipper and accepted for himself and his assigns.

PREPAID \$ \_\_\_\_\_

COLLECT \$ \_\_\_\_\_

COD FEE: \_\_\_\_\_

TOTAL \$ \_\_\_\_\_

CHARGES: \_\_\_\_\_

FREIGHT CHARGES

FREIGHT PREPAID: except when box at right is

Check box at right if charges are to be COLLECT

SHIPPER

CARRIER

PER

PER

\*Mark with "X" to designate Hazardous Material as defined in Title 49 of the Code of Federal Regulations

U.S. DOT/PHMSA/OMB/CB  
REPORT NUMBER: 05-01069  
REPORT NUMBER: 1  
PAGE 1 OF 2

Certify that the below-named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

B. TRUCK SHIPPER NO. 3861  
STRAIGHT BILL OF LADING ORIGINAL - NOT NEGOTIABLE DATE: 08-03-05

TO: SWIMMING POOL MGT. DU PAGE SWIMMING CENTER		FROM: BARSON CHEMICAL CO.	
520 N. OAKHURST		170 SHEPARD AVENUE	
AURORA, ILLINOIS		WHEELING, IL 60090	
	* HM	Kind of Packaging, Description of Articles Special Marks and Exceptions	100#
12	*	50# pails DICHLOROISOCYANURIC ACID DRY, 5.1, UN2465, PG11 (CHLORINE CONCENTRATE)	600#
18	*	50# pails TRICHLOROISOCYANURIC ACID DRY, 5.1, UN2468, PG11 (TRICHLOR 3" TABLETS)	900#
18		50# pails SODA ASH	900#
36		25# boxes DIATOMACEOUS EARTH (ordered 18/50# bags)	900#
PO# VERBAL - ROSS			
**** CHEM TREC 800-424-9300 ****			

Remit COD TO: PREPAID \$ TOTAL \$  
Address COD Amt. \$ COLLECT CHARGES:  
Note-Where the rate is dependent on value, shippers are required to state  
specifically in writing the agreed or declared value of the property. FREIGHT CHARGES  
FREIGHT PREPAID: except when box at right is  
checked. Check box at right if charges are to be COLLECT  
The agreed or declared value of the property is hereby specifically stated by  
the shipper to be not exceeding \$ per  
RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading, the property described  
above in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and  
destined as indicated above which said carrier (The word carrier being understood throughout this contract as meaning any person or  
corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination if on its  
route otherwise to deliver to another carrier on the route to said destination it is mutually agreed as to each carrier of all or any of, said  
property overall or any portion of said route to destination and as to each party at any time interested in all or any of said property, that  
every service to be performed hereunder shall be subject to all the bill of lading terms and conditions in the governing classification on  
the date of shipment.

Shipper hereby certifies that he is familiar with all the bill of lading terms and conditions in the governing classification and the  
said terms and conditions are hereby agreed to be the shipper and accepted for himself and his assigns.

SHIPPER CARRIER  
PER PER

\*Mark with "X" to designate Hazardous Material as defined in Title 49 of the Code of Federal Regulations

FOR DO NOT WRITE  
REPORT NUMBER: 752145  
RECEIVED: 11/11/00  
PAGE 1 OF 1

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**



**PIPELINE AND HAZARDOUS MATERIAL SAFETY  
ADMINISTRATION HAZMAT SECURITY INSPECTION**



Inspection Date: 8-23-05

Facility Name and Address: Barson Chemical Company  
170 Shepard Ave.  
Wheeling, IL 60090

Company Officials Interviewed:

Shawn Gray

Title:

Warehouse Mgr.

1. Does the company offer any of the following for transportation:[§ 172.800(b)]

- ☐ a) A highway route controlled quantity of a Class 7 material.
- ☐ b) More than 55 pounds of a Division 1.1, 1.2, 1.3 in a motor vehicle, rail car, or freight container.
- ☐ c) More than 1 liter per package, of a material poison by inhalation, Zone A.
- ☐ d) A quantity of a hazardous material in a bulk packaging (> 3,500 gallons for liquids/gas, 468 cubic feet for solids).
- ☐ e) >5,000 lbs. (gw) of one hazard class in non-bulk packaging for which placarding of a vehicle, rail car or freight container is required.
- ☐ f) A select agent or toxin listed in 42 CFR, Part 73.
- ☒ g) A quantity of hazardous materials that requires placarding
- ☐ h) None of the above: Security Plan is not required, though Security Awareness Training is still required to be conducted (see page 2, Security Training)

2. Does the company have a written security plan? No

3. Has it been approved by another Federal agency [172.804]?

4. If yes, name of agency \_\_\_\_\_ and date approved \_\_\_\_\_

U.S. DOT/PHMSA/OHME/CE  
REPORT NUMBER: 05431069  
EXHIBIT NUMBER: 3  
PAGE 1 OF 4

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

5. Does the plan include a security assessment of possible transportation security risks [172.802]?

6. Does the plan include measures to address the assessed risk(s)? \_\_\_\_\_

7. Does the plan address personnel security?

8. What method is in place to confirm information provided by employees hired for positions that involve access to or handling of materials covered by the security plan?

9. Is the company adhering to its personnel security plan?

10. Does the plan address unauthorized access?

11. Does the company adhere to the plan to prevent unauthorized persons to gain access to hazmat covered by the plan or transport conveyances being prepared for transportation?

U.S. DOT/PHMSA/OHME/CE  
REPORT NUMBER: 03431069  
EXHIBIT NUMBER: 3  
PAGE 2 OF 4

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

12. Does the plan address en route security?

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13. Does the company adhere to its en route security plan from origin to destination, including private/contract/common carrier?

---

---

**SECURITY TRAINING**

14. Has the company conducted security awareness training (SAT)? \*   No  

15. Does the security awareness training include a component on how to recognize and respond to possible security threats? \_\_\_\_\_

16. Has each HM employee, hired after March 25, 2003, received SAT within 90 days of hire?

---

17. Has the company conducted in-depth security training (plan specific) for all HM employees by December 22, 2003? \_\_\_\_\_

18. Does the in-depth training program include the following:

a. Company security objectives? \_\_\_\_\_

b. Specific security objectives? \_\_\_\_\_

c. Employee responsibilities? \_\_\_\_\_

d. Actions to take in the event of a security breach? \_\_\_\_\_

e. Organizational security structure? \_\_\_\_\_

U.S. DOT/PHMSA/OHME/CH  
REPORT NUMBER: 05431069  
EXHIBIT NUMBER: 3  
PAGE 3 OF 4

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**



**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

19. Has the company created and retained records of employee security training? *No*

Additional Notes

U.S. DOT/PHMSA/OHME/CE  
REPORT NUMBER: 05431069  
EXHIBIT NUMBER: 3  
PAGE 4 OF 4

[\* Note: A company is not required to test or retain records concerning the new security plan training requirement until an employee's next scheduled retraining or within the 3 year Hazmat Employee training cycle.]

This inspection report assesses your compliance with our Security Plan regulations (49 CFR §§ 172.704 (Training), 172.800 (Purpose and Applicability), 172.802 (Components of a security plan), and 172.804 (Relationship to other Federal requirements)). **This inspection report and any comments made during this evaluation do not constitute an endorsement or approval of your security program in whole or in part. Do not send us a copy of your Security Plan as a part of corrective action. If we need a copy of your Security Plan we will specifically request it in writing.**

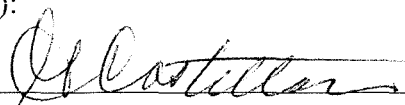
I hereby certify that the above responses are true to the best of my knowledge.

Persons Interviewed:

Signature  Title \_\_\_\_\_ Date *8-23-05*

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Inspector(s):

Signature  Title *HME* Date *8-23-05*

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Nothing Follows. \_\_\_\_\_ (Inspector's Initials)

The following website may be helpful in the development and administration of security plans:

[http://hazmat.dot.gov/hmt\\_security.htm](http://hazmat.dot.gov/hmt_security.htm)

**INVESTIGATIVE NOTES**  
**COMPILED AND RETAINED FOR ENFORCEMENT PURPOSES**

U.S. DOT/PHMSA/OHME  
Report# \_\_\_\_\_  
Exhibit # \_\_\_\_\_

Specify that the hazardous material is properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations

B TRUCK  
STRAIGHT BILL OF LADING ORIGINAL - NOT NEGOTIABLE

SHIPPER NO. 3926  
DATE: 08-19-05

TO: VONDERHEIDE		FROM: BARSON CHEMICAL CO.	
636 E CHICAGO ST		170 SHEPARD AVENUE	
ELGIN, IL 60123		WHEELING, IL 60090	
	*	Kind of Packaging, Description of Articles Special Marks and Exceptions	100#
15	*	25# PAILS CORROSIVE SOLID, ACIDIC, INORGANIC N.O.S. (MONOPERSULFATE COMPOUND) 8, UN3260, PG111(SHOCK RITE)	375#
10		50# PAILS SODA ASH	500#
		P.O. VERBAL - JEFF	
		**** CHEM TREC 800-424-9300 ****	

Remit  
COD TO: Address  
COD Amt. \$  
Note-Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property checked.  
The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding \$ per  
RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading, the property described above in apparent good order, except as noted (contents and condition of contents of packages unknown), marked, consigned, and destined as indicated above which said carrier (The word carrier being understood throughout this contract as meaning any person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery at said destination if on its route otherwise to deliver to another carrier on the route to said destination it is mutually agreed as to each carrier of all or any of, said property overall or any portion of said route to destination and as to each party at any time interested in all or any of said property, that every service to be performed hereunder shall be subject to all the bill of lading terms and conditions in the governing classification on the date of shipment.  
Shipper hereby certifies that he is familiar with all the bill of lading terms and conditions in the governing classification and the said terms and conditions are hereby agreed to be the shipper and accepted for himself and his assigns.

PREPAID \$  
COLLECT  
COD FEE: TOTAL \$  
CHARGES:  
FREIGHT CHARGES  
FREIGHT PREPAID except when box at right is checked  
Check box at right if charges are to be COLLECT

SHIPPER  
PER

CARRIER  
PER

\*Mark with "X" to designate Hazardous Material as defined in Title 49 of the Code of Federal Regulations

U.S. DOT/PHMSA/OHIM/B/C/E  
REPORT NUMBER: 05-131069  
EXTENT NUMBER: 4  
PAGE 1 OF 1

3P991MI1530XX



DuPont Chemicals

3661CR

Revised 12-MAR-1999

Printed 13-APR-1999

# "OXONE" MONOPERSULFATE COMPOUND

## CHEMICAL PRODUCT/COMPANY IDENTIFICATION

### Material Identification

"OXONE" is a registered trademark of DuPont.

Corporate MSDS Number	DU005614
CAS Number	70693-62-8
CAS Name	POTASSIUM HYDROGEN PEROXYMONOSULFATE SULFATE
Grade	TECHNICAL and CG (COARSE GRANULAR)

### Tradenames and Synonyms

POTASSIUM MONOPERSULFATE  
POTASSIUM PEROXYMONOSULFATE

### Company Identification

MANUFACTURER/DISTRIBUTOR  
DuPont  
1007 Market Street  
Wilmington, DE 19898

### PHONE NUMBERS

Product Information	1-800-441-7515
Transport Emergency	CHEMTREC: 1-800-424-9300
Medical Emergency	1-800-441-3637

## COMPOSITION/INFORMATION ON INGREDIENTS

### Components Material

Material	CAS Number	%
POTASSIUM PEROXYMONOSULFATE	10058-23-8	43
POTASSIUM BISULFATE	7646-93-7	23
POTASSIUM SULFATE	7778-80-5	29
POTASSIUM PEROXYDISULFATE	7727-21-1	3
MAGNESIUM CARBONATE	546-93-0	2

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## **FIRE FIGHTING MEASURES**

### **Flammable Properties**

Will not burn.

### **Fire and Explosion Hazards:**

Improper storage of large masses of "OXONE" can trap heat and lead to ignition of combustibles (See section on "Handling and Storage"). Grinding or intensive mixing may cause decomposition with liberation of heat and oxygen; ignition of oxidizable material if present may occur.

### **Extinguishing Media**

Water.

### **Fire Fighting Instructions**

Will release oxygen when heated, intensifying a fire. Acidic mist may be present; self contained breathing apparatus should be used.

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## **ACCIDENTAL RELEASE MEASURES**

### **Safeguards (Personnel)**

NOTE: Review FIRE FIGHTING MEASURES and HANDLING (PERSONNEL) sections before proceeding with clean-up. Use appropriate PERSONAL PROTECTIVE EQUIPMENT during clean-up.

### **Accidental Release Measures**

Sweep up. Flush area with low pressure water.  
(see Disposal Considerations)

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## **HANDLING AND STORAGE**

### **Handling (Personnel)**

Avoid breathing dust. Avoid contact with eyes, skin, or clothing. Wash thoroughly after handling.

### **Storage**

Store in a cool, dry, well-ventilated area away from heat sources such as light fixtures or space heaters.

Pallets of 25 kg. bags can be stacked. Leave open space on all sides of each pallet to provide ventilation. See local fire codes for allowable limits. Bulk Bags should be stored on pallets; if stacked use pyramid style, no more than 2 pallets high.

Closely stacked bags should not exceed a 4 ft. (1.2m) cube. Keep packages dry. Do not store with combustible materials or with incompatibles (see "Incompatibility with Other Materials").

(Continued)

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## EXPOSURE CONTROLS/PERSONAL PROTECTION

### Engineering Controls

Use sufficient ventilation to keep employee exposure below recommended limits.

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### Personal Protective Equipment

#### EYE/FACE PROTECTION

Wear safety glasses. Wear coverall chemical splash goggles and face shield when the possibility exists for eye or face contact from airborne material.

#### RESPIRATORS

A NIOSH approved air-purifying respirator with an appropriate particulate cartridge or canister may be permissible under certain circumstances where airborne concentrations are expected to exceed exposure limits. Protection provided by air purifying respirators is limited. Use a positive pressure air supplied respirator if there is any potential for an uncontrolled release, exposure levels are not known, or any other circumstances where air purifying respirators may not provide adequate protection.

#### PROTECTIVE CLOTHING

Wear impervious clothing, such as gloves, apron, boots or whole bodysuit, made of rubber, as appropriate. Leather gloves may be used when handling dry material.

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### # Exposure Guidelines

#### Exposure Limits

##### "OXONE" MONOPERSULFATE COMPOUND

PEL	(OSHA)	Particulates (Not Otherwise Regulated) 15 mg/m <sup>3</sup> , 8 Hr. TWA, total dust 5 mg/m <sup>3</sup> , 8 Hr. TWA, respirable dust
TLV	(ACGIH)	None Established
AEL *	(DuPont)	1 mg/m <sup>3</sup> , 8 & 12 Hr. TWA

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#### Other Applicable Exposure Limits

##### POTASSIUM SULFATE

PEL	(OSHA)	None Established
TLV	(ACGIH)	None Established
AEL *	(DuPont)	10 mg/m <sup>3</sup> , 8 Hr. TWA

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##### POTASSIUM PEROXYDISULFATE

TLV	(ACGIH)	0.1 mg/m <sup>3</sup> , 8 Hr. TWA
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##### MAGNESIUM CARBONATE

PEL	(OSHA)	15 mg/m <sup>3</sup> , total dust, 8 Hr. TWA 5 mg/m <sup>3</sup> , respirable dust, 8 Hr. TWA
TLV	(ACGIH)	10 mg/m <sup>3</sup> , total dust, 8 Hr. TWA
AEL *	(DuPont)	None Established

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\* AEL is DuPont's Acceptable Exposure Limit. Where governmentally imposed occupational exposure limits which are lower than the AEL are in effect, such limits shall take precedence.

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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE  
NATIONAL INSTITUTES OF HEALTH  
NATIONAL OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION  
WASHINGTON, D.C. 20540  
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## ECOLOGICAL INFORMATION

### Ecotoxicological Information

#### Aquatic Toxicity

#### Potassium Sulfate

96-hour Tlm, bluegill sunfish : 3,500 mg/L

#### Magnesium Carbonate

96-hour LC50, species unidentified: >1,000 ppm

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## DISPOSAL CONSIDERATIONS

### Waste Disposal

Comply with Federal, State, and local regulations. Solutions greater than 3% by weight have a pH < 2.0, and may be a RCRA hazardous waste upon disposal due to the acidic pH characteristic of the solution. If approved, flush to sewer or waste treatment plant. Large quantities should be neutralized with soda ash.

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## TRANSPORTATION INFORMATION

### Shipping Information

DOT/IMO

Proper Shipping Name

CORROSIVE SOLID, ACIDIC, INORGANIC,  
N.O.S.  
(MONOPERSULFATE COMPOUND)

Hazard Class

8

UN No.

3260

DOT/IMO Label

CORROSIVE

Packing Group

III

Shipping Containers:

Multiwall Bags

Fiber Pack Drums

Bulk Bags

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## REGULATORY INFORMATION

### U.S. Federal Regulations

TSCA Inventory Status

Reported/Included.

TITLE III HAZARD CLASSIFICATIONS SECTIONS 311, 312

Acute : Yes

Chronic : No

Fire : No

Reactivity : No

Pressure : No

LISTS:

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(Continued)

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**REGULATORY INFORMATION**(Continued)

SARA Extremely Hazardous Substance - No  
CERCLA Hazardous Material - No  
SARA Toxic Chemical - No

**CANADIAN WHMIS CLASSIFICATION:**

D2B

**CANADA PEST CONTROL PRODUCTS ACT**

Registration Number 23137

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**OTHER INFORMATION****NFPA, NPCA-HMIS**

NPCA-HMIS Rating	
Health	2
Flammability	0
Reactivity	1

Personal Protection rating to be supplied by user depending on use conditions.

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**Additional Information**

For further information, see DuPont "OXONE" Monopersulfate Compound Data Sheet.

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The data in this Material Safety Data Sheet relates only to the specific material designated herein and does not relate to use in combination with any other material or in any process.

Responsibility for MSDS : DuPont Chemicals  
Address : Engineering & Product Safety  
> : P.O. Box 80709, Chestnut Run  
> : Wilmington, DE 19880-0709  
Telephone : (302) 999-4946

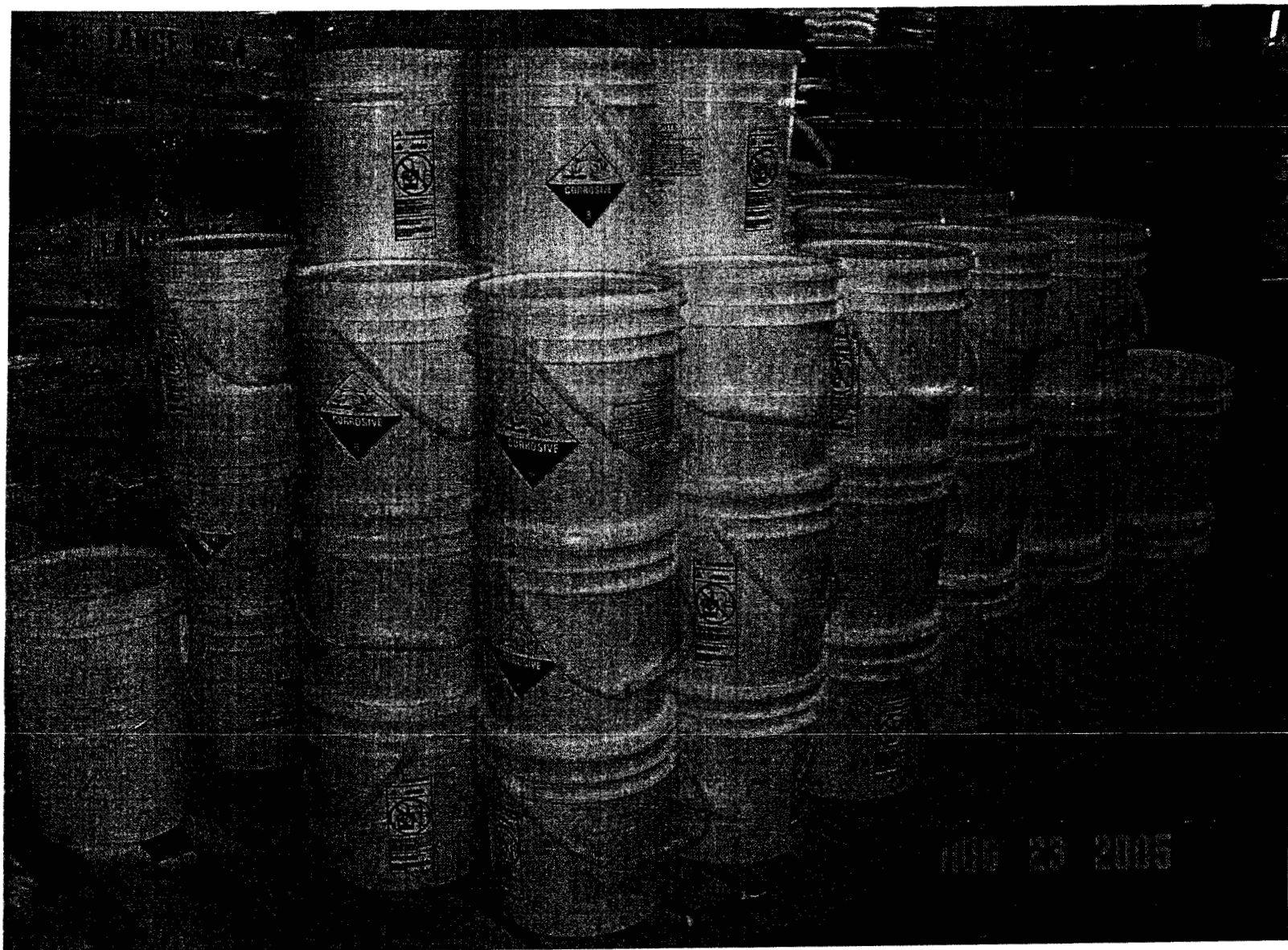
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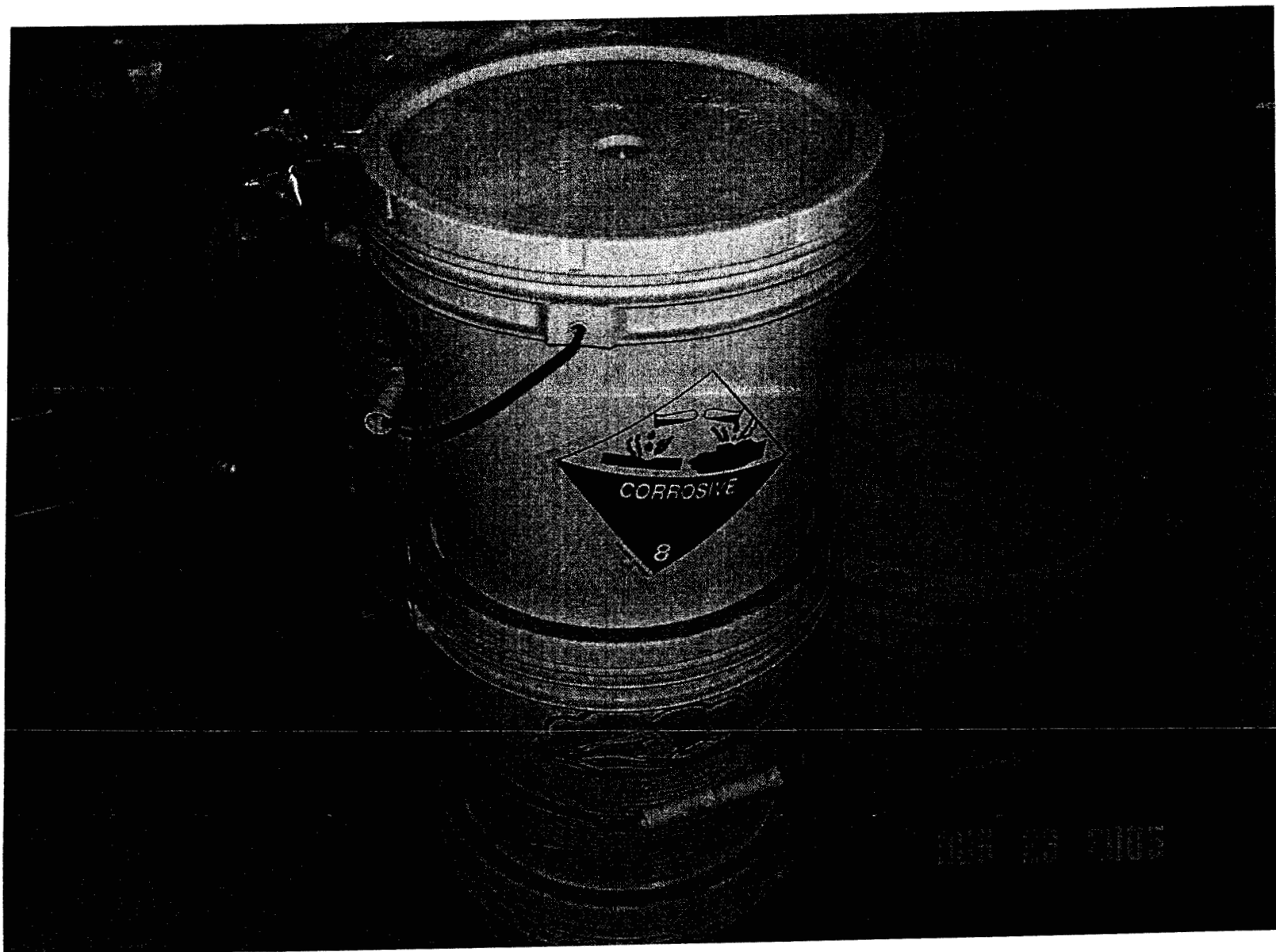
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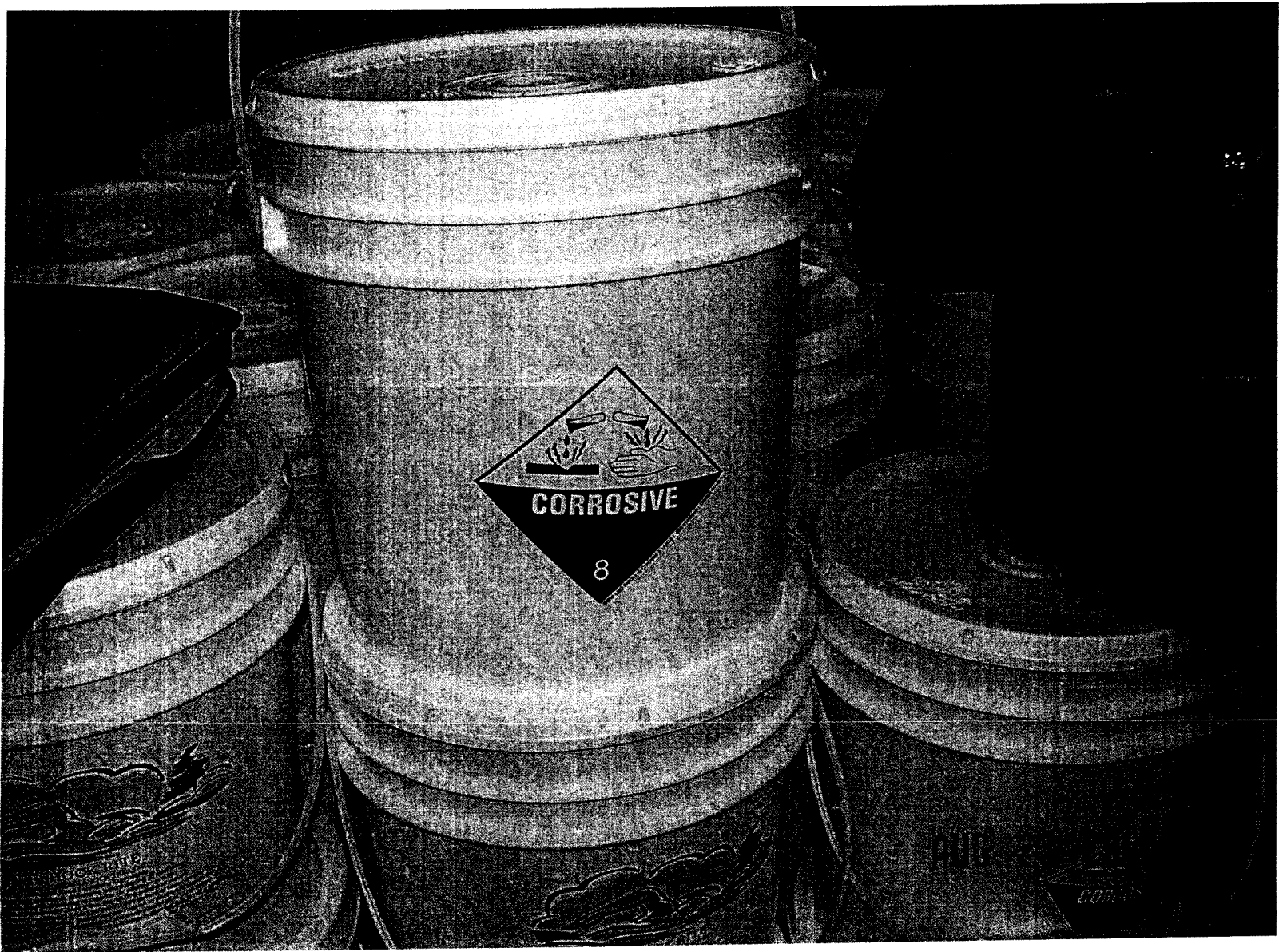
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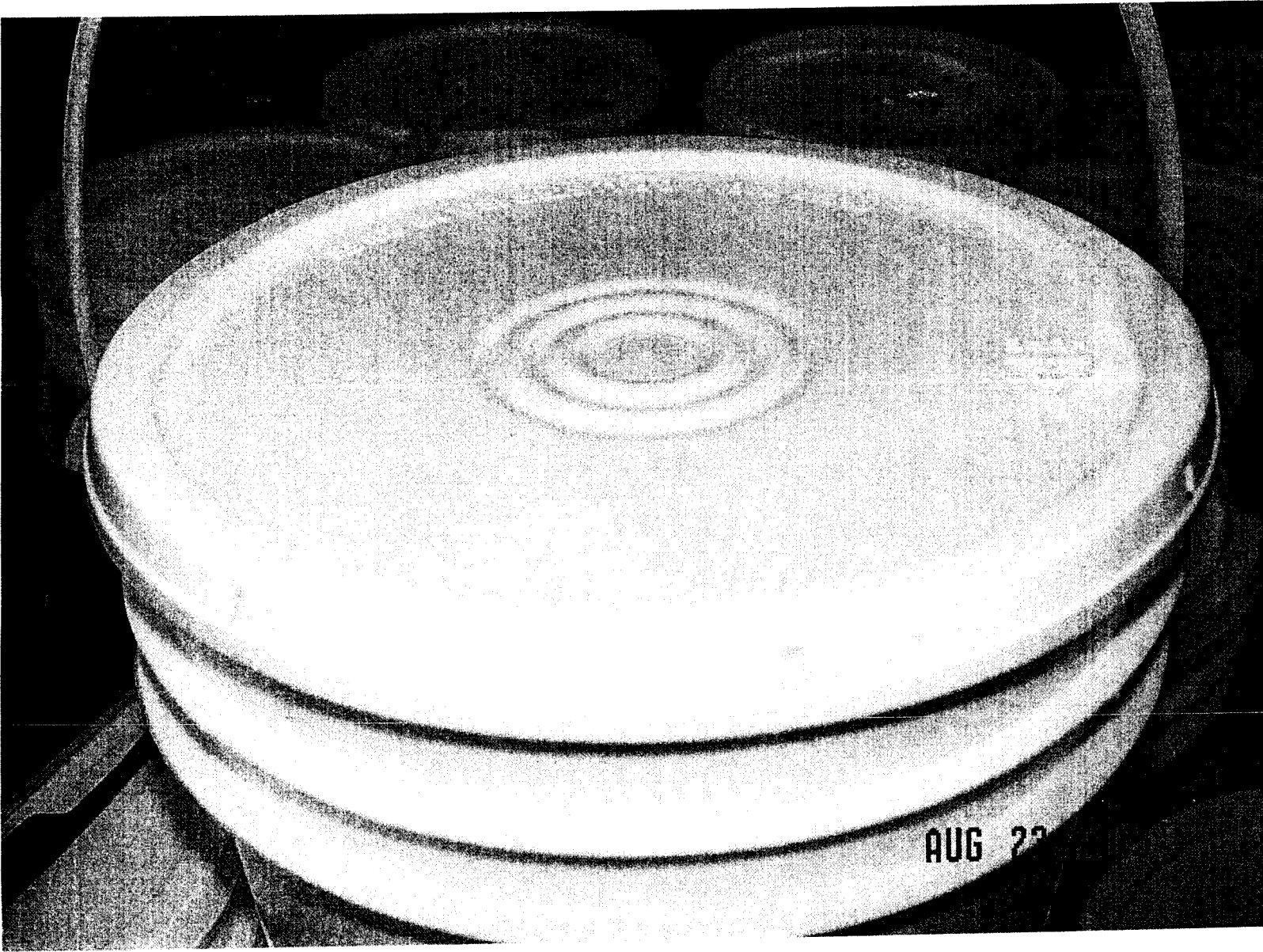
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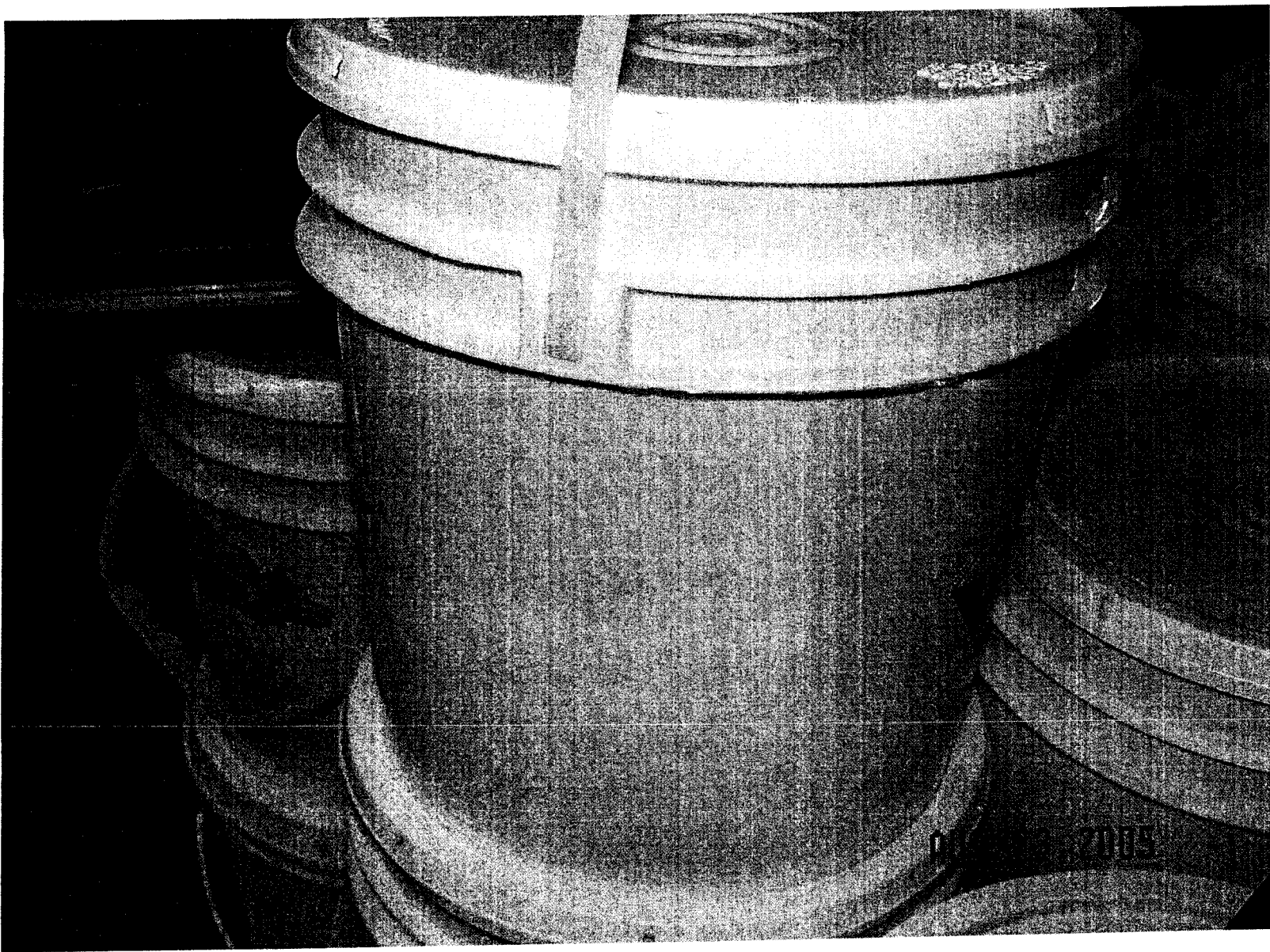




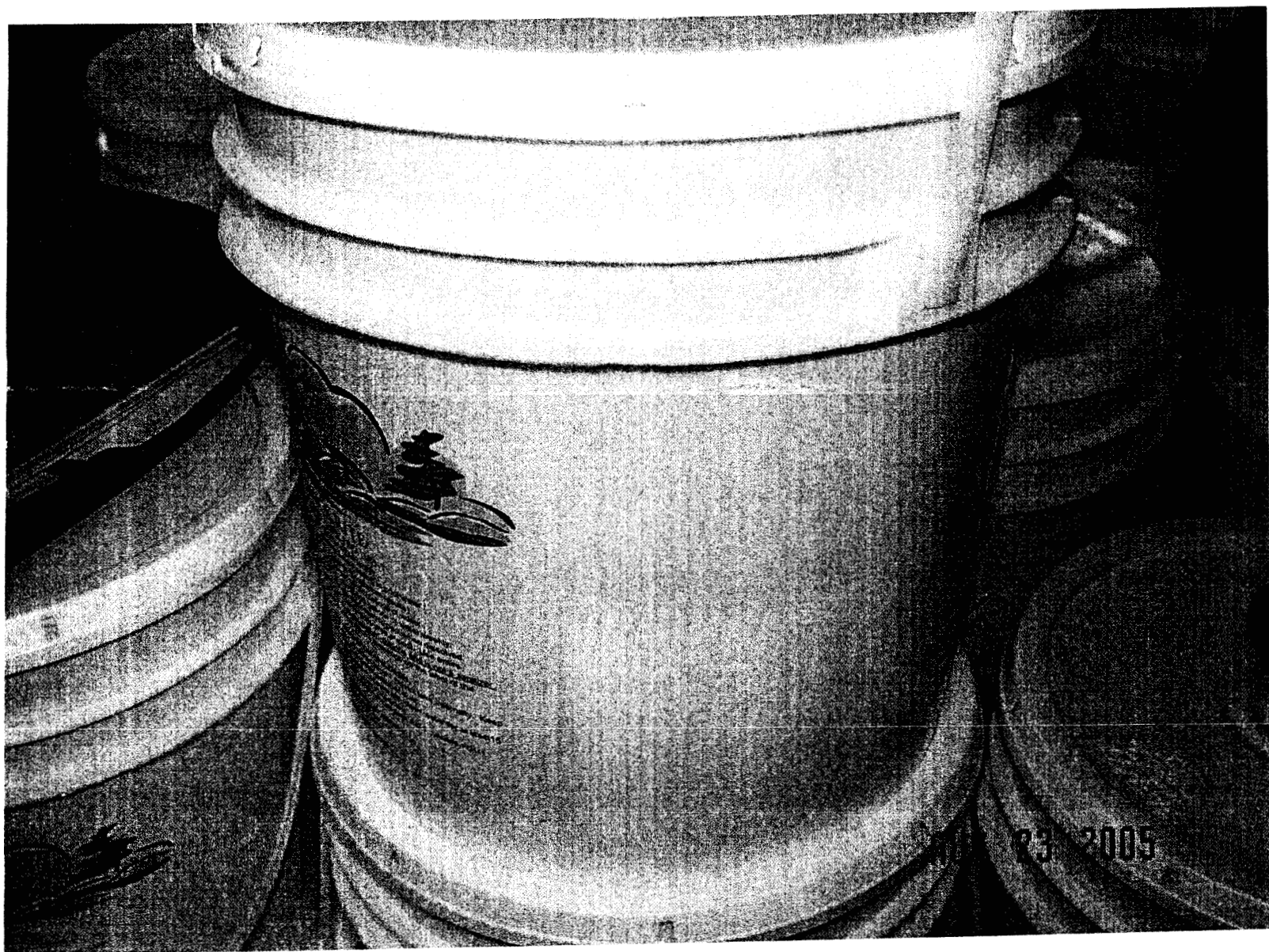














## SHOCK RITE

### NON-CHLORINE SHOCK TREATMENT

Please Read Directions Thoroughly  
DO NOT mix with other chemicals before adding to pool water.  
(Use only in presence of chlorine for optimum results.)  
"Initial Treatment" Use 2 lbs. per 10,000 gallons of water.  
"Standard Treatment" Use 1 lb. per 10,000 gallons of water.  
DO NOT swim with swimmers in pool. Swimmers may return to pool when dissolved.  
Broadcast evenly over surface of water, concentrating on the deep area of pool. Use where  
swimmers are at one time. SHOCK RITE does not contain chlorine and is not a sanitizer.  
Use machine to sanitize pool water in accordance with the directions on the label of the  
machine.

### DANGER - KEEP AWAY FROM CHILDREN

Caution: Irritates skin, eyes, nose and throat. Do not take internally. Keep  
out of eyes and off skin. Avoid inhalation of dust.  
In case of contact immediately flush skin or eyes with clean water for at least 15  
minutes. For eyes - Call a physician.  
Keep from children. Keep out of eyes. Avoid inhaling dust. UNCLAS. 10/11

BARSON CHEMICAL COMPANY

1200 West 10th Avenue  
Channahon, IL 60018

25 LBS NET WEIGHT

AUG 23 2005

## NON-CHLORINE SHOCK TREATMENT

Please Read Directions Thoroughly

DO NOT mix with other chemicals before adding to pool water !

(Use only in presence of chlorine for optimum results)

**\*Initial Treatment\*** Use 2 lbs. per 10,000 gallons of water

**\*Standard Treatment\*** Use 1 lb. per 10,000 gallons of water weekly

DO NOT apply with swimmers in pool. Swimmers may return to pool when dissolved. Broadcast over surface of water, concentrating on the deep area of pool. Use entire required amount at one time. SHOCK RITE does not contain chlorine and is not a sanitizer. Use chlorine to sanitize pool water in accordance with the directions on the label of the chlorine container.

### **DANGER – KEEP AWAY FROM CHILDREN.**

Harmful if swallowed. May irritate skin, eyes, nose and throat. Do not take internally. Keep out of eyes and off skin. Avoid inhalation of dust.

**First Aid** – In case of contact immediately flush skin or eyes with clean water for at least 15 minutes. For eyes....Call a physician.

This product contains monopersulfate. 8, corrosive Solid, Acidic Inorganic, N.O.S., UN3260, PG111

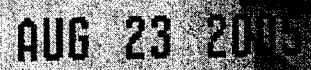
**BARSON CHEMICAL COMPANY**

170 Shepard Avenue  
Wheeling, IL 60090

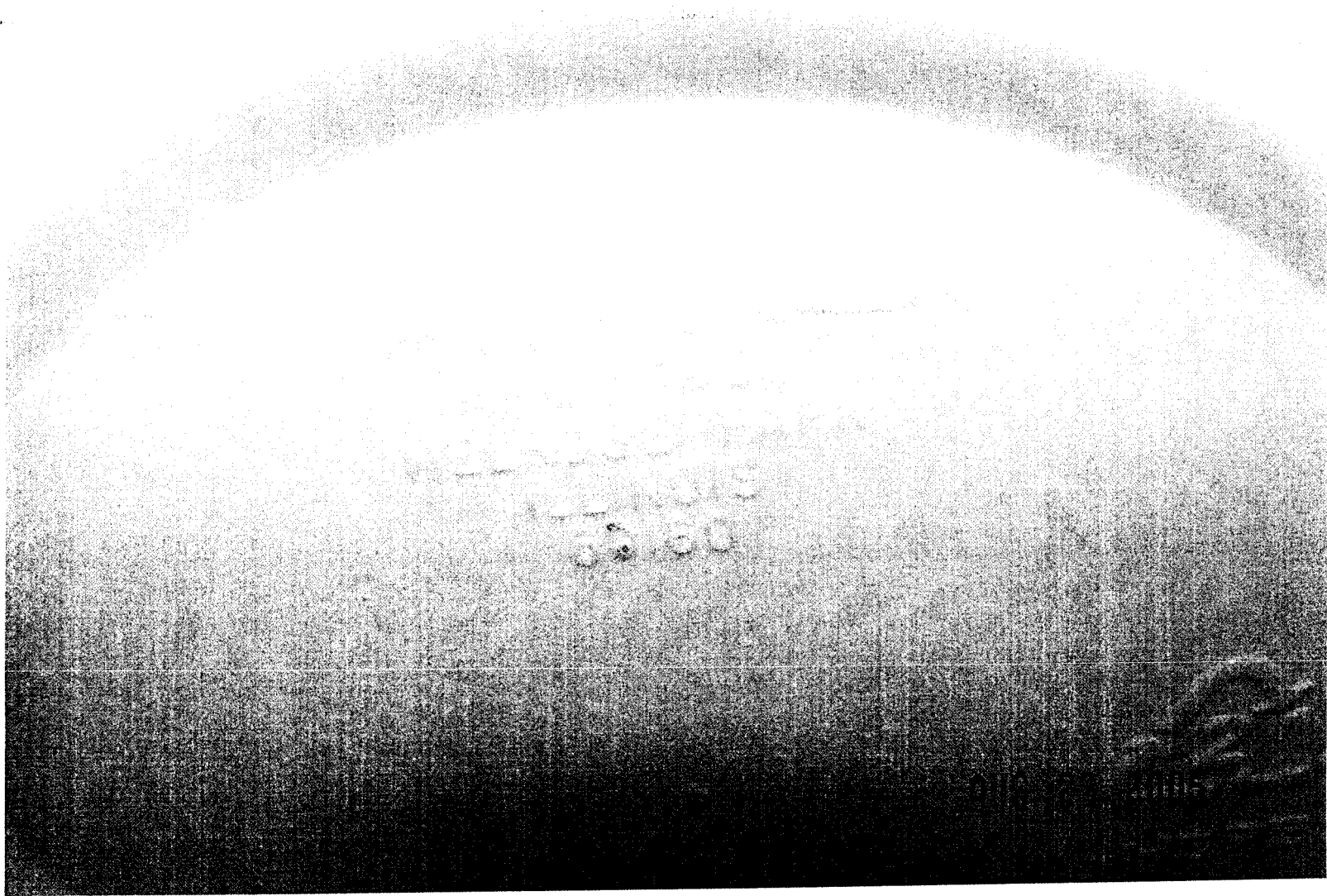
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**AUG 23 2005**







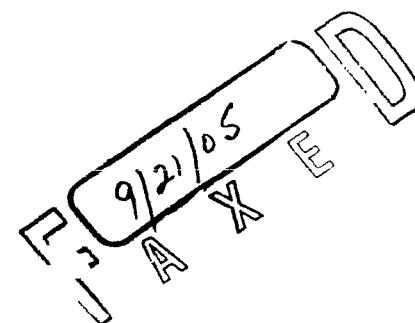




September 21, 2005

U.S. Department of Transportation  
Research and Special Programs Administration  
2300 East Devon Avenue Suite 478  
Des Plaines, Illinois 60018

Attention: Guadalupe "Lupe" Castellanos  
Sr. Hazardous Materials Enforcement Specialist  
Office of Hazardous Materials Enforcement



Dear Ms. Castellanos:

In reference to your visit to our offices on August 23, 2005 and our telephone conversation of last week; I am sending this letter along with a copy of our bill from Ropak Packaging for UN-packaging buckets to be used in the repackaging of hazardous materials (Corrosives Solids, UN3260 PGIII)

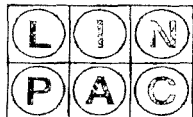
Also we have our Hazardous Communications/Materials Program Book available for your review. We are awaiting our certification papers that both Shawn Gray and I had completed a class earlier this year to be faxed to us by Arch Chemical where we attended said class. My brother and employee, Joseph Niemiec has attended hazardous materials classes in the past at Chemical Distribution Inc. (documentation in our book) and will take the next Arch Chemical class when it is available.

In regards to the Security Plan or Security Training, we are currently in the process of watching the cd-rom and following the necessary process in order to comply with the SAT training. I will be out of the office until September 27, 2005 due to testing at the University of Chicago for my daughter. If you could please extend my 30 day compliance (effective 9-23-05) until after my return, I would appreciate it. I will be sure that the necessary SAT training and paperwork will be completed after that time.

Thank you.

Laura Gray, President/Owner

U.S. DOT/RSPP/OSME/CENTRAL REGION  
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Remit to:  
Ropak Central  
21048 Network Place  
Chicago, IL 60673-1210  
(847) 956-0750

# Invoice

Copy 1

## Ropak Packaging

Central Division  
A MEMBER OF THE LINPAC GROUP OF COMPANIES

BARSON CHEMICAL  
170 SHEPPARD  
Wheeling IL 60090

Customer: BAFV Invoice : 114352 Date: 08-31-05

Quantity	Un.	Item Code	Price	Un.	Tax/VAT	Discount	Amount
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Order Number : 326123  
Order Date : 08-25-05  
Delivery Date: 08-31-05  
Customer PO : 79474  
PICK UP

< Order Text >

\*\*\* REC'D CHECK # 17249 \$1,143.36 THANK YOU \*\*\*

Dispatch Note: 83275

288.00	ea	U0590A12PM1	2.4900	ea			717.12
		5gal UN pail, 90mil, White, 144pk, U.S. Safety Print					
288.00	ea	LTGZ0A2400P1H2	1.4800	ea			426.24
		LT-EZ, UN-1H2, WHITE, 288pk					

U.S. DOT/RSPA/CHME/CENTRAL REGION  
REPORT NUMBER: 05431069  
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PAGE NUMBER: 2 OF 2

Goods  
1143.36

Total USD  
1143.36

Delivery : ORG:PICK UP

Payment : COLLECT ON DELIVERY

When remitting, please reference : BAFV/ 114352

Representative : 3007

SELLER RESERVES THE RIGHT TO ASSESS INTEREST CHARGES ON PAST DUE BALANCES

NO CLAIMS ACCEPTED UNLESS NOTIFIED IN WRITING WITHIN 30 DAYS OF SHIPMENT